UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/525,381	02/23/2005	Timothy S. Stevens	36-1887	3945

23117   7590   01/07/2009

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER
SMITH, GARRETT A

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
01/07/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _29 September 2008_.

2a)☒ This action is **FINAL**.　　　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under _Ex parte Quayle_, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-4 and 6-21_ is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-4 and 6-21_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This Office Action is regarding Applicant's response filed 29 September 2008 to a

prior Office Action. Claims 1 – 4 and 6 – 21 are pending. Claims 1 – 3, 7 – 9, 12 are

amended.

2.   This Office Action is the **Fourth Action, Final Rejection**.

Response to Arguments

35 USC § 102(b)

3.   Applicant's arguments (page 8 – 10) and amendments, filed 29 September 2008,

regarding the rejection under 35 USC § 102(b) of claims 1 – 4, 6 – 10, 14, 15, and 17 –

21 have been fully considered but they are not persuasive.

Applicant argues that neither Reber nor Sweat teach the automatic arrangement

of the composition of a media article on the basis of read relationship metadata. The

Examiner respectfully disagrees. The Examiner must first note that changing

"relationship data" to "relationship metadata" has no effect on the scope because

relationship data is always metadata because it describes some relationship between

other data or objects. Metadata is merely data about data. Further, having a media

article synthesized from a concatenation of media data or identifiers does not really limit

the scope because by definition when a data object is created, the object's pieces are

linked together. Thus, a form of concatenation is inherent (in any other case, the media

article is not "synthesized"). Further, read relationship metadata may only show that the

set of media data are linked in some fashion and thus directs the system to link the sets.

The claim does not describe how the set (or identifiers) are linked or that any specific

order is required. In light of this interpretation, Reber does teach this limitation.

For these reasons, the rejection under 35 USC § 102(b) of claims 1 – 4, 6 – 10,

14, 15, and 17 – 21 is **maintained**.

35 USC § 103(a)

4.   Applicant's arguments (page 8 – 10) and amendments, filed 29 September 2008,

regarding the rejection under 35 USC § 103(a) of claim 11 – 13 and 16 have been fully

considered but they are not persuasive. See discussion above. For these reasons, the

rejection under 35 USC § 103(a) of claims 11 – 13 and 16 is **maintained**.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

6.   Claims **1 – 4 and 6 – 21** are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

7.   In regard to **claims 1 and 7**, the claims recite "read relationship metadata".

However, the term does not have antecedent basis with the claims. Applicant must

clarify whether "read relationship metadata" is equal to "relationship metadata".

Claim Rejections - 35 USC § 102

8.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9.   Claims **1 – 4, 6 – 10, 14, 15 and 17 – 21** are rejected under 35 U.S.C. 102(b) as

being anticipated by Reber et al (US Patent 5,584,006; patented 10 December 1996).

10.   **In regard to claim 1,** Reber et al teaches a method of synthesizing a media

article comprising: automatically reading digital metadata associated with a first set of

stored media data (*[col 3, lines 52 – 54], the table of relations links the linear media data

and any digitized media data*), which digital metadata includes: related set identity data

identifying a second set of stored media data (*[col 11, lines 41 – 49] the table of

relations contains the identifiers for the second set of data which is deemed equivalent*);

and relationship data which indicates the relationship between what represented by the

first set of stored media data and what is represented by the second set of stored media

data (*[col 11, lines 41 – 49] the relationship between the two sets of media data is the

equivalence of the media data including data on how the equivalent media overlap,

what sequences overlap and their locations stored in the table of relationships; [col 11,

42 - 43] application arranges the media data in a time sequence and switches in and out

media on the fly to keep what a user sees and hears in sequence*); and automatically

synthesizing said media article comprising a plurality of selected sets of stored media

data or identifiers thereof concatenated together, said automatic synthesis including automatically arranging said first and second sets of stored media data or identifiers thereof within the media article on basis of the read relationship metadata (*[col 11, lines 39 – 41] the table of relations is analyzed by the application continuously to find equivalent media data, i.e. media data that can be part of the same time sequence from the same or different sources and arranges media data by changing sources as well as adding additional pieces of media data in accordance to the results of the analysis*); and storing or outputting said media article (*col 11, lines 39 – 49*).

11.   **In regard to claim 2**, Reber et al further teaches a method further comprising generating said related set identity data and said relationship data (*[col 10, lines 36 - 38] relational information pertinent to the list of source identifiers is added to a list of relational information i.e. generating relationship data, [col 10, lines 46-47] any new source identifiers are added to the source list i.e. generating identity data*).

12.   **In regard to claim 3**, Reber et al further teaches wherein said metadata further comprises content data indicating what is represented by said sets of stored media data (*[col 11, lines 5 – 7]; a time sequence that media data covers is stored in the table of relations as is shows equivalence*); said method further comprising: selecting, from said plurality of sets of stored media data; one or more selected sets of stored media data in dependence upon said content data (*[col 11, 34-38 and col 11, lines 43 - 47]; the application selections from set of media data the available and most complete media data based on the time sequence data*).

13.   **In regard to claim 4**, Reber et al further teaches making a plurality of such

selections (*[col 10, lines 57 – 58] covering a time sequence may take multiple sets of

media data*); and concatenating the results of said selections (*[col 11, lines 7-8] a list is

constructed of all results of the time sequence selection*).

14.   **In regard to claim 6**, Reber et al further teaches said set of stored media data

contains video data (*[col 1, lines 17-19]*)

15.   **In regard to claim 7**, Reber et al teaches one or more memory devices storing,

for each of a plurality of sets of stored media data include first and second sets of stored

media data, metadata (*[col 11, lines 53-54] the table of relations is created and stored in

memory*) which at least for said first set of media data includes: related set identify data

identifying a second set of stored media data and relationship data which indicates the

relationship between what represented by the first set of stored media data and what is

represented by the second set of stored media data (*[col 11, 42 - 43] application

arranges the media data in a time sequence and switches in and out media on the fly to

keep what a user sees and hears in sequence; [col 11, lines 41 – 49] the relationship

between the two sets of media data is the equivalence of the media data including data

on how the equivalent media overlap, what sequences overlap and their locations

stored in the table of relationships*); and one or more digital processors in

communication with said one or more memory devices and arranged in operation to

automatically read said metadata and to automatically synthesize said media article

comprising a plurality of selected sets of stored media data or identifiers thereof

concatenated together, said automatic synthesis including automatically arranging said

first and second sets of stored media data or identifiers thereof within the media article

on basis of the read relationship metadata (*[col 11, lines 39 – 41] the table of relations*

is analyzed by the application continuously to find equivalent media data, i.e. media

data that can be part of the same time sequence from the same or different sources,

and arranges media data by changing sources as well as adding additional pieces of

media data in accordance to the results of the analysis).

16.   **In regard to claim 8**, Reber et al further teaches said relationship data indicates

a causal relationship between what is represented by one of said sets of stored media

data and what is represented by another of said sets of stored media data (*[col 2, line*

54], time sequences purport a causal relationship).

17.   **In regard to claim 9**, Reber et al also teaches said one or more processors is

further arranged in operation to provide a user with an interface enabling the user to

enter said relationship data (*[col 6, lines 43 – 49] Mfm_Create is an interface whereby*

the user can add new relationship data i.e. new time codes and sequences).

18.   **In regard to claim 10**, Reber et al further teaches said metadata is stored in a

database (*[col 11, lines 55 – 58]*), and said one or more processors are further arranged

in operation to query said database to obtain identifiers of sets of stored media data

whose metadata meets one or more conditions specified in said query ([col 10, lines 57-

59] a procedure of finding identifiers of media data from a query consisting of a source

identifier and range identification).

19.   **In regard to claim 14**, Reber et al also teaches a content store storing a plurality

of sets of stored media data (*[col 3, lines 39 –41]*), said metadata for each set of stored

media data including a pointer to the location of said set of stored media data in said

content store (*[col 6 line 16], media identifier is the pointer to the location of the media

file*).

20.   **In regard to claim 15,** Reber et al further teaches said one or more memories

further store one or more media element selection criteria (*[col 10, lines 57-59] a

procedure of finding identifiers of media data from a query consisting of a source

identifier and range identification*), and said one or more processors are further

arranged in operation to receive a set of media element identifiers and select said input

set by selecting a subset of media element identifiers in accordance with said selection

criteria (*[col 11, lines 39 – 41] the table of relations is analyzed by the application

continuously to find equivalent media data, i.e. media data that can be part of the same

time sequence from the same or different sources, and arranges media data by

changing sources as well as adding additional pieces of media data in accordance to

the results of the analysis*).

21.   **In regard to claim 17,** Reber et al further teaches said set of stored media data

contains video data (*[col 1, lines 17-19]*).

22.   **In regard to claims 18 – 21,** the Examiner notes that the phrase "so as" is used

to set off intended use recitation. Therefore, the clause "to determine … stored media".

Is determined to be intended use and thus has no patentable weight. However, Reber

et al. teaches the arranging of stored media data and the intended use (*[col 11, lines 41

– 49] the relationship between the two sets of media data is the equivalence of the

media data including data on how the equivalent media overlap, what sequences

overlap and their locations stored in the table of relationships; [col 11, 42 - 43]

application arranges the media data in a time sequence and switches in and out media

on the fly to keep what a user sees and hears in sequence).

Claim Rejections - 35 USC § 103

23.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

24.   This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

25.   Claims **11 – 13 and 16** are rejected under 35 U.S.C. 103(a) as being

unpatentable over Reber et al (US Patent 5,584,006; patented 10 December 1996) as

applied to claim 10 above, and further in view of Sweat et al (US Patent 5,619,636;

patented 8 April 1997).

26.   **In regard to claim 11**, Reber et al teaches the invention as substantially

claimed. Reber et al does not explicitly teach the use of an object-oriented database.

However, Sweat et al teaches said database comprises an object-oriented database

and metadata for each set of stored media data is stored as an object in said object-

oriented database (*[col 3, lines 54-57]*). It would have been obvious to a person of

ordinary skill in the art at the time of invention to use an object-oriented database of

Sweat et al with the apparatus of Reber et al because it would allow for greater

compatibility, modularity and easy of use for a user.

27.   **In regard to claim 12**, Sweat et al further teaches said relationship data is stored

as data, which defines the relationships between objects in the database ([col 3, lines

54-57] database "tracks and maintains references to media"). It would have been

obvious to a person of ordinary skill in the art at the time of invention to use an object-

oriented database of Sweat et al with the apparatus of Reber et al because it would

allow for greater compatibility, modularity and easy of use for a user.

28.   **In regard to claim 13**, Sweat et al further teaches membership of a set is

indicated by each member in the set inheriting from a container object ([col 4, lines 32-

40] a plurality of modules in a module is a container module which indicates

membership of a set of related modules).   It would have been obvious to a person of

ordinary skill in the art at the time of invention to use an object-oriented database of

Sweat et al with the apparatus of Reber et al because it would allow for greater

compatibility, modularity and easy of use for a user.

29.   **In regard to claim 16**, Sweat et al further teaches said one or more media

element selection criteria comprise a set of template data, each of said sets of template

data listing a plurality of slots to be filled ([col 7, lines 12-18] palette is a template with a

number of slots), and, for each slot, one or more associated requirements of media

elements for filling said slot ([col 7, lines 12-18] user query sets criteria for filling the slot

on the palette); and said one or more processors are further arranged in operation to

provide said subset by, for each of said slots, retrieving one or more identifiers of media

elements whose metadata accords with said one or more requirements for said slots

([col 7, lines 12-18] fully constructed palette can be saved and used). It would have

been obvious to a person of ordinary skill in the art at the time of invention to use an

object-oriented database of Sweat et al with the apparatus of Reber et al because it

would allow for greater compatibility, modularity and easy of use for a user.

Conclusion

30.   Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Garrett Smith whose telephone number is (571)270-1764. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tim T. Vo can be reached on (571) 272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

January 7, 2009   /GS/
                                                   Garrett Smith
                                                   Patent Examiner
                                                   Art Unit 2168

/Tim T. Vo/
Supervisory Patent Examiner, Art Unit 2168